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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-317**

12 **BLAKE EDWARD FOFRICH**
5762 Alfred Ave.
13 Westminster, CA 92683

A C C U S A T I O N

14 Registered Nurse License No. 514272

15 Respondent.

16
17 Louise R. Bailey, M.Ed., RN, Interim Executive Officer of the Board of Registered Nursing
18 (Complainant) alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN, (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),
22 Department of Consumer Affairs.

23 2. On or about August 11, 1995, the Board issued Registered Nurse License Number
24 514272 to Blake Edward Fofrich (Respondent). On August 24, 2001, Respondent's registered
25 nurse license was revoked; however, the revocation was stayed and Respondent was placed on
26 probation for three (3) years on terms and conditions, as set forth in paragraph 14 below.
27 Respondent's registered nurse license was in full force and effect at all times relevant to the
28 charges brought herein and will expire on January 31, 2011, unless renewed.

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4. Code section 2761 states, in pertinent part:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

5. Code section 2762 states, in pertinent part:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

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6. Code section 4060 states, in pertinent part:

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1 7. Health and Safety Code section 11173 states, in pertinent part:

2 (a) No person shall obtain or attempt to obtain controlled substances, or
3 procure or attempt to procure the administration of or prescription for controlled
substances, (1) by fraud, deceit, misrepresentation, or subterfuge . . .

4 8. California Code of Regulations, title 16, section ("Regulation") 1443 states:

5 As used in Section 2761 of the code, "incompetence" means the lack of
6 possession of or the failure to exercise that degree of learning, skill, care and
experience ordinarily possessed and exercised by a competent registered nurse as
described in Section 1443.5.

8 COST RECOVERY

9 9. Code section 125.3 provides, in pertinent part, that the Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 CONTROLLED SUBSTANCE AT ISSUE

14 10. "Dilaudid", a brand of hydromorphone, is a Schedule II controlled substance as
15 designated by Health and Safety Code section 11055, subdivision (b)(1)(K).

16 FIRST CAUSE FOR DISCIPLINE

17 **(Diversion and Possession of Controlled Substances)**

18 11. Respondent is subject to disciplinary action pursuant to Code section 2761,
19 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
20 subdivision (a), in that on or about May 1, 2006, and May 2, 2006, while assigned to work and on
21 duty in the urgent care center at Hollywood Community Hospital, Hollywood, California,
22 Respondent did the following:

23 **Diversion of Controlled Substances:**

24 a. Respondent obtained the controlled substance Dilaudid by fraud, deceit,
25 misrepresentation, or subterfuge, in violation of Health and Safety Code section 11173,
26 subdivision (a), as follows: On the dates indicated above, Respondent signed out on the
27 Controlled Substance Administration Record ("CSAR") 2 mg doses of Dilaudid under the names
28 of Patients "W" and "L", charted on the CSAR that he administered 1 mg of the medication to the

1 patients and wasted the remaining 1 mg, but failed to have his wastages witnessed by another
2 nurse or otherwise account for the disposition of the unused portions of the Dilaudid, as more
3 particularly set forth in paragraph 12 below.

4 **Possession of Controlled Substances:**

5 b. On the dates indicated above, Respondent possessed various quantities of the
6 controlled substance Dilaudid without a valid prescription from a physician, dentist, podiatrist,
7 optometrist, veterinarian, or naturopathic doctor, in violation of Code section 4060.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(False Entries in Hospital/Patient Records)**

10 12. Respondent is subject to disciplinary action pursuant to Code section 2761,
11 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
12 subdivision (e), in that on or about May 1, 2006, and May 2, 2006, while assigned to work and on
13 duty in the urgent care center at Hollywood Community Hospital, Hollywood, California,
14 Respondent falsified or made grossly incorrect, grossly inconsistent, or unintelligible entries in
15 the hospital's records pertaining to the controlled substance Dilaudid, as follows:

16 **Patient "W":**

17 a. On May 1, 2006, at 18:52 hours, Respondent signed out on the CSAR Dilaudid 2 mg
18 for patient W, charted on the CSAR that he administered 1 mg Dilaudid to the patient and wasted
19 the remaining 1 mg, but failed to have his wastage co-signed or witnessed by another nurse or
20 otherwise account for the disposition of the remaining 1 mg Dilaudid.

21 **Patient "L":**

22 b. On May 1, 2006, at 2020 hours, Respondent signed out on the CSAR Dilaudid 2 mg
23 for patient L, charted on the CSAR that he administered 1 mg Dilaudid to the patient and wasted
24 the remaining 1 mg, but failed to have his wastage co-signed or witnessed by another nurse or
25 otherwise account for the disposition of the remaining 1 mg Dilaudid.

26 c. On May 2, 2006, at 0041 hours, Respondent signed out on the CSAR Dilaudid 2 mg
27 for patient L, charted on the CSAR that he administered 1 mg Dilaudid to the patient and wasted

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1 the remaining 1 mg, but failed to have his wastage co-signed or witnessed by another nurse or
2 otherwise account for the disposition of the remaining 1 mg Dilaudid.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Incompetence)**

5 13. Respondent is subject to disciplinary action pursuant to Code section 2761,
6 subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about May 1, 2006,
7 and May 2, 2006, while assigned to work and on duty in the urgent care center at Hollywood
8 Community Hospital, Hollywood, California, Respondent was guilty of incompetence within the
9 meaning of Regulation 1443, as set forth in paragraphs 11 and 12 above.

10 **MATTERS IN AGGRAVATION: PRIOR DISCIPLINE**

11 14. To determine the degree of discipline to be assessed against Respondent, if any,
12 Complainant alleges as follows: On July 25, 2001, pursuant to the Decision and Order adopted
13 by the Board as its Decision in the disciplinary proceeding titled *In the Matter of the Accusation*
14 *Against: Blake Edward Fofrich*, Case No. 2001-115, the Board revoked Respondent's registered
15 nurse license effective August 24, 2001. The revocation was stayed and Respondent was placed
16 on probation for three (3) years on terms and conditions. Respondent admitted violating Code
17 section 2762, subdivision (a) (obtaining and possessing a controlled substance); section 2762,
18 subdivision (b) (using a controlled substance in a dangerous or injurious manner); and sections
19 490 and 276, subdivision (f) (criminal convictions substantially related to the qualifications,
20 functions, and duties of a registered nurse, to wit: possession of a controlled substance, battery
21 resulting in serious bodily injury and infliction of corporal injury upon a spouse).

22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Board of Registered Nursing issue a decision:

25 1. Revoking or suspending Registered Nurse License Number 514272, issued to Blake
26 Edward Fofrich;

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1 2. Ordering Blake Edward Fofrich to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
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6 DATED: _____

1/7/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

25 LA2009505131
26 accusation.rtf
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